

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
SEPTEMBER 1, 2020**

ITEM 4

SUBJECT

CONSIDERATION OF A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR DESIGNEE TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY TO PROVIDE EXPEDITED REVIEW OF RAIL PROJECTS, ENVIRONMENTAL TECHNICAL ASSISTANCE, PROJECT CONSULTATIONS, AND COORDINATION SERVICES

DISCUSSION

The California High-Speed Rail Authority (Authority) is responsible for planning, designing, building, and operating the California statewide high-speed train (HST or Project). The HST system will connect mega-regions of the state, contribute to economic development and a cleaner environment, create jobs, and preserve agricultural and protected lands. The State Water Resources Control Board (State Water Board) is responsible for issuing approvals for Authority's proposed discharges of dredged and fill material to waters of the state related to the construction of the Project. Expedited permitting is necessary for the Authority to ensure compliance with the time period stipulated in the granting of federal funds for construction of the Project.

In January 2017, the State Water Board and the Authority entered into a Memorandum of Understanding (MOU) that established implementation procedures for issuing Clean Water Act section 401 certifications for HST projects. This MOU included an ending date of December 2019. Staff is proposing to reissue the MOU.

In April 2019, the State Water Board adopted the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Procedures). The Procedures authorize the State Water Board to enter into a written agreement with state agencies, such as the Authority, that act as a California Environmental Quality Act (CEQA) lead agency for one or more projects subject to the Procedures. The written agreement can set out alternative procedures and requirements regarding the submission and review of project applications. The Procedures require consideration of such an agreement at a public meeting.

The State Water Board and Authority have drafted such an MOU to address the investigation, review, and/or preparation of all required documents related to processing Authority permit applications and compliance with permit conditions, including but not limited to: review and comment on, and/or preparation, of documents required under the Porter-Cologne Act, federal Clean Water Act, and CEQA. The MOU is generally the same as the expired MOU except that it consolidates earlier MOU amendments, eliminates the maximum dollar limitation for reimbursement costs and MOU expiration date, and makes conforming changes, including inclusion of Exhibit 1, which confirms how the Procedures apply to the Authority's applications, summarized as follows:

- If the Authority submits an application to amend an Order that was issued prior to the effective date of the Procedures, the previously approved aquatic resource delineation will be used unless:
 - An area was not considered a wetland solely due to the lack of vegetation. In such cases, any such unvegetated areas should be classified as a wetland for State Water Board.
 - A previously undelineated area is required to be added for State Water Board consideration. The Authority would comply with Sections II (Wetland Definition) and III (Wetland Delineation) of the Procedures in such cases.
- Application materials submitted to State Water Board from the Authority following the effective date of the Procedures will:
 - Comply with Sections II (Wetland Definition) and III (Wetland Delineation) of the Procedures.
 - Not be required to comply with Section IV (Procedures for Regulation of Discharges of Dredged or Fill Material to Waters of the State) per footnote 9. Application requirements pertaining to watershed, alternatives analysis, and climate change will continue to be fulfilled through coordination with State Water Board during the CEQA process.

POLICY ISSUE

Should the State Water Resources Control Board authorize the Executive Director or Designee to enter into a Memorandum of Understanding with the California High-Speed Rail Authority?

FISCAL IMPACT

Staff work associated with or resulting from the action can be accomplished with a forthcoming amended interagency agreement. State Water Resources Control Board [Resolution No. 2019-0067](#) authorized the Executive Director, Chief Deputy Director, or Deputy Director of the Division of Administrative Services to execute amendments to the interagency agreement with the Authority to meet requested permitting schedule. A draft amended agreement is under review and pending authorization.

REGIONAL BOARD IMPACT

None.

STAFF RECOMMENDATION

Adopt resolution to authorize the Executive Director or Designee to execute a Memorandum of Understanding with the Authority to meet the requested permitting schedule.